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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,502	07/29/2003	Masahiro Matsuo	04995.109001	6738
7590	08/09/2007		EXAMINER	
Jonathan P. Osha ROSENTHAL & OSHA L.L.P. Suite 2800 1221 McKinney St. Houston, TX 77010			ONUAKU, CHRISTOPHER O	
			ART UNIT	PAPER NUMBER
			2621	
			MAIL DATE	
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				PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/629,502	MATSUO, MASAHIRO
	Examiner Christopher Onuaku	Art Unit 2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1 is/are allowed.
- 6) Claim(s) 2 and 5 is/are rejected.
- 7) Claim(s) 3 and 4 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/29/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 2 is rejected under 35 U.S.C. 102(e) as being anticipated by Tsukidate (US 6,714,722).

Regarding claim 2, Tsukidate discloses a broadcasting system, including a multimedia recorder with recorded program management functions based on EPG data, a TV receiver provided with such a recorder, and a system for supporting such functions in a broadcasting equipment, comprising:

a) a receiver section (Fig.1&2, tuner 10 of the receiver terminal 5) adapted to receive a broadcast wave provided by multiplexing broadcast signals of a plurality of channels, each containing at least one subchannel, a demodulate section (Fig.1&2, tuner 10 of the receiver terminal 5) adapted to demodulate the broadcast signal of a selected channel and to generate video data and audio data based on the broadcast signal, a record section (Fig.1&2, TS Disk recorder 13 of the receiver terminal 5)

adapted to record the video data and the audio data generated by the demodulate section, and a control section (Fig.1&2, controller 19 of the receiver terminal 5) adapted to control the record section so as to record the video data and the audio data of one of the subchannels contained in the selected channel (col.6, line 66 to col.7, line 20) or to simultaneously record the video data and the audio data of two or more of the subchannels according to a setup description (this limitation not addressed by examiner, since this is a conditional "or" limitation) (see col.4, line 52 to col.7, line 64).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukidate (US 6,714,722).

Regarding claim 5, Tsukidate fail to explicitly disclose wherein when any of the subchannels for recording becomes unreceivable, the control section controls the record section so as to record the video data and the audio data of any other subchannel contained in the selected channel whose reception is continued. Official Notice is taken that a television broadcasting system that records and reproduces multimedia signals do have such capabilities. It would have been obvious to modify

Tsukidate by realizing Tsukidate with the means to switch recording receiving channels/sources when a recording receiving channel/source fails, for example, in order to avoid recording interruption caused by the failure of a recording receiving channel/source.

***Allowable Subject Matter***

5. Claim 1 is allowable over the prior art of record.
6. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 1, the invention relates to a digital broadcast receiving and recording apparatus for receiving a multiplexed broadcast signal including a plurality of channels each having at least one subchannel, outputting to a display such a television receiver, and recording video data and audio data generated based on the broadcast signal.

The closest reference Tsukidate (US 6,714,722) discloses a broadcasting system, including a multimedia recorder with recorded program management functions based on EPG data, a TV receiver provided with such a recorder, and a system for supporting such functions in a broadcasting equipment.

However, Tsukidate fails to explicitly disclose a digital broadcast receiving and recording apparatus, where the apparatus further comprises wherein the control section controls the record section so as to record the video data and the audio data of the

subchannel with the smallest number of the subchannels contained in the selected channel or to simultaneously record the video data and the audio data on a predetermined number of subchannels in the ascending order of the subchannel numbers of the subchannels contained in the selected channel.

7. Claims 3&4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 3, the invention relates to a digital broadcast receiving and recording apparatus for receiving a multiplexed broadcast signal including a plurality of channels each having at least one subchannel, outputting to a display such a television receiver, and recording video data and audio data generated based on the broadcast signal.

The closest reference Tsukidate (US 6,714,722) discloses a broadcasting system, including a multimedia recorder with recorded program management functions based on EPG data, a TV receiver provided with such a recorder, and a system for supporting such functions in a broadcasting equipment.

However, Tsukidate fails to explicitly disclose a digital broadcast receiving and recording apparatus, where the apparatus further comprises wherein the control section controls the record section so as to record the video data and the audio data of the

subchannel with the smallest number of the subchannels contained in the selected channel.

Regarding claim 4, the invention relates to a digital broadcast receiving and recording apparatus for receiving a multiplexed broadcast signal including a plurality of channels each having at least one subchannel, outputting to a display such a television receiver, and recording video data and audio data generated based on the broadcast signal.

The closest reference Tsukidate (US 6,714,722) discloses a broadcasting system, including a multimedia recorder with recorded program management functions based on EPG data, a TV receiver provided with such a recorder, and a system for supporting such functions in a broadcasting equipment.

However, Tsukidate fails to explicitly disclose a digital broadcast receiving and recording apparatus, where the apparatus further comprises wherein the control section controls the record section so as to simultaneously record the video data and the audio data on a predetermined number of subchannels in the ascending order of the subchannel numbers of the subchannels contained in the selected channel.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hite et al (US 5,774,170) teach an electronic system and a

process for enhancing advertising by delivering TV and radio commercials targeted to individual viewer's based desires and needs.

Eldering (US 6,324,519) teaches an advertisement auction system in which content/opportunity providers announce to advertisers that they have an opportunity to present an advertisement to a consumer, wherein an advertiser transmits ad characterization information which is correlated with the consumer profile.

Kitamura et al (US 6,253,025) teach a system for encoding and decoding image information such as a sub-picture which is reproduced or played back simultaneously with a main picture.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Onuaku whose telephone number is 571-272-7379. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
COO  
8/4/07.

  
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